

SENATE BILL 3718

By Tate

AN ACT to amend Tennessee Code Annotated, Title 54,
Chapter 3, Part 1, relative to the Tennessee
Tollway Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 54-3-113(b), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(b) The pilot program created by this chapter shall be limited to no more than three (3) projects, as follows:

(1) A new highway project, including any bridges and other structures that may be necessary to complete the project;

(2) A major bridge project crossing a major river, together with any related highway facilities and structures needed to complete the project and give it logical termini; and

(3) Subject to the provisions of subsection (f), a major bridge project crossing the Mississippi River, together with any related highway facilities and structures needed to complete the project and give it logical termini, based upon an assessment of such bridge's potential use by commercial and private motor vehicles, mass transit, bicycle traffic and railroads by individual and corporate citizens, including a specific analysis of assistance such bridge may provide to the economically disadvantaged.

SECTION 2. Tennessee Code Annotated, Section 54-3-113, is amended by adding the following language as new subsection (f):

(f)

(1) The department may enter into a comprehensive agreement with a private operator to construct, improve or operate a pilot project for a major bridge project crossing the Mississippi River.

(2) Prior to the approval of the department for a major bridge project crossing the Mississippi authorized by subdivision (b)(3), the private entity shall provide the following material and information with respect to the transportation facility or facilities that the private entity proposes to operate as a qualifying transportation facility:

(A) A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

(B) A description of the transportation facility or facilities, including the conceptual design of such facility or facilities and all proposed interconnections with other transportation facilities;

(C) The projected cost of the transportation facility or facilities and the proposed date for acquisition of or the beginning of construction of, or improvements to the transportation facility or facilities;

(D) A statement setting forth the method by which the operator proposes to secure all property interests required for the transportation facility or facilities, including:

(i) The current owners of the property needed for the transportation facility or facilities;

(ii) The nature of the interest in the property to be acquired;

and

(iii) Any property that the department is expected to be requested to condemn;

(E) Information relating to the current transportation plans, if any, of each affected local jurisdiction;

(F) A list of all permits and approvals required for acquisition or construction of or improvements to the transportation facility or facilities from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

(G) A list of public utility facilities, if any, that will be crossed by the transportation facility or facilities and a statement of the plans of the operator to accommodate such crossings;

(H) A statement setting forth the operator's general plans for operation of the transportation facility or facilities; and

(I) Such additional material and information as the department may reasonably request.

(3) Prior to acquiring or commencing construction of, or improvements to, the qualifying transportation facility, the department shall enter into a comprehensive agreement with the operator. Such comprehensive agreement shall provide for:

(A) Delivery of performance and payment bonds in connection with the construction of, or improvements to, the qualifying transportation facility, in the forms and amounts satisfactory to the department;

(B) Review of plans and specifications for the qualifying transportation facility by the department and approval by the department if the plans and specifications conform to standard conditions of the department;

(C) Inspection of construction of or improvements to the qualifying transportation facility by the department to ensure that they conform to the engineering standards acceptable to the department;

(D) Maintenance by the operator of a policy or policies of public liability insurance (copies of which shall be filed with the department accompanied by proofs of coverage), or self-insurance, in form and amount satisfactory to the department and reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying transportation facility;

(E) Monitoring of the maintenance practices of the operator by the department and the taking of such actions as the department finds appropriate to ensure that the qualifying transportation facility is properly maintained;

(F) Reimbursement to be paid to the department for its cost to provide the services performed by the department;

(G) User fees remaining subject to approval by the department;
and

(H) Provisions under which the department may elect to take over all or part of the qualifying transportation facility.

(4) In the comprehensive agreement, the department may agree to make grants or loans to the operator from time to time from amounts received from the federal government or any division thereof.

(5) The comprehensive agreement shall incorporate the duties of the operator and may contain such other terms and conditions that the department determines serve the public purpose of this chapter. Without limitation, the

comprehensive agreement may contain provisions under which the department agrees to provide notice of default and cure rights for the benefit of the persons providing financing for the qualifying transportation facility. The comprehensive agreement may contain such other terms and conditions to which the operator and the department mutually agree.

(6)

(A) For the purpose of this subdivision (f)(6), unless the context otherwise requires:

(i) "Minority owned business" means a business that is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business and who is impeded from normal entry into the economic mainstream because of:

(A) Past practices of discrimination based on race, religion, ethnic background, or sex;

(B) A disability as defined in § 4-26-102; or

(C) Past practices of racial discrimination against African-Americans; and

(ii) "Minority owned business participation plan" means a business plan for actively soliciting bids from minority owned businesses when a municipality or public authority purposes to finance, construct, lease, equip, renovate or acquire a toll bridge pilot project. Any such plan shall strive to maximize participation of minority owned businesses through both prime and second tier

business contracting opportunities throughout the project and shall strive to achieve a level of minority owned business participation representative of the population demographics of the county in which the toll bridge pilot project is located.

(B) The department shall review the application to confirm that the minority owned business participation plan includes the following information:

(i) The proposal for purchasing goods and services from minority owned businesses;

(ii) Information on programs to provide technical assistance to such businesses;

(iii) A statement of intent to make a concerted effort to follow its minority owned business participation plan; and

(iv) Any other information deemed relevant in the discretion of the commissioner.

(C) The department of finance and administration may annually review each municipality or public entity's pilot project pursuant to this section for compliance with such municipality's or public entity's minority owned business participation plan.

(D) This subdivision (f)(6) shall only apply to any county having a population in excess of eight hundred thousand (800,000) according to 2000 federal census or any subsequent federal census.

SECTION 3. This act shall take effect July 1, 2008, the public welfare requiring it.